

# HOUSE BILL No. 1551

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-14-3-4; IC 16-18-2; IC 16-19-10-4; IC 16-37.

**Synopsis:** Vital statistics, records, and reports. Adopts privacy standards for the disclosure of information contained in vital statistics, vital records, and vital reports. Requires the state department of health to adopt rules for inspections of vital statistics, vital records, and vital reports for genealogical studies. Allows the news media to inspect and copy vital statistics, vital records, and vital reports. Makes conforming changes.

**Effective:** July 1, 2005.

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**Wolkins, Welch, Porter**

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January 18, 2005, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1551

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.173-2003,  
2 SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS  
3 CORRECTED AND AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public records  
5 are excepted from section 3 of this chapter and may not be disclosed by  
6 a public agency, unless access to the records is specifically required by  
7 a state or federal statute or is ordered by a court under the rules of  
8 discovery:  
9 (1) Those declared confidential by state statute.  
10 (2) Those declared confidential by rule adopted by a public  
11 agency under specific authority to classify public records as  
12 confidential granted to the public agency by statute.  
13 (3) Those required to be kept confidential by federal law.  
14 (4) Records containing trade secrets.  
15 (5) Confidential financial information obtained, upon request,  
16 from a person. However, this does not include information that is  
17 filed with or received by a public agency pursuant to state statute.



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(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

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(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~information concerning~~ the factual basis for a disciplinary ~~actions~~ action in which final action has been taken and that resulted in the employee being ~~disciplined~~ suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing

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1 systems, and other software that are owned by the public agency  
 2 or entrusted to it and portions of electronic maps entrusted to a  
 3 public agency by a utility.

4 (12) Records specifically prepared for discussion or developed  
 5 during discussion in an executive session under IC 5-14-1.5-6.1.  
 6 However, this subdivision does not apply to that information  
 7 required to be available for inspection and copying under  
 8 subdivision (8).

9 (13) The work product of the legislative services agency under  
 10 personnel rules approved by the legislative council.

11 (14) The work product of individual members and the partisan  
 12 staffs of the general assembly.

13 (15) The identity of a donor of a gift made to a public agency if:

14 (A) the donor requires nondisclosure of the donor's identity as  
 15 a condition of making the gift; or

16 (B) after the gift is made, the donor or a member of the donor's  
 17 family requests nondisclosure.

18 (16) Library or archival records:

19 (A) which can be used to identify any library patron; or

20 (B) deposited with or acquired by a library upon a condition  
 21 that the records be disclosed only:

22 (i) to qualified researchers;

23 (ii) after the passing of a period of years that is specified in  
 24 the documents under which the deposit or acquisition is  
 25 made; or

26 (iii) after the death of persons specified at the time of the  
 27 acquisition or deposit.

28 However, nothing in this subdivision shall limit or affect contracts  
 29 entered into by the Indiana state library pursuant to IC 4-1-6-8.

30 (17) The identity of any person who contacts the bureau of motor  
 31 vehicles concerning the ability of a driver to operate a motor  
 32 vehicle safely and the medical records and evaluations made by  
 33 the bureau of motor vehicles staff or members of the driver  
 34 licensing *medical advisory board. committee.* However, upon  
 35 written request to the commissioner of the bureau of motor  
 36 vehicles, the driver must be given copies of the driver's medical  
 37 records and evaluations that concern the driver.

38 (18) School safety and security measures, plans, and systems,  
 39 including emergency preparedness plans developed under 511  
 40 IAC 6.1-2-2.5.

41 **(19) Vital records, vital reports, and vital statistics required**  
 42 **to be kept confidential under IC 16-37-1-10.5 and**

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**IC 16-37-1-10.6.**

~~(19)~~ (20) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection *by any public agency* without the prior approval of the public agency *that owns, occupies, leases, or maintains the airport*. The public agency *that owns, occupies, leases, or maintains the airport*: ~~The submitting public agency.~~

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of ~~submitting~~ public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under

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IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

~~(20)~~ **(21)** The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law;

**(1) a vital record that is a certificate or report of a death shall be made available for inspection and copying fifty (50) years after the creation of the record; and**

**(2) a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.**

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 16-18-2-317.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 317.5. "Research", for purposes of IC 16-37-1-10.5 and IC 16-37-1-10.6, has the meaning set forth in IC 16-37-1-10.5(a).**

SECTION 3. IC 16-18-2-365.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 365.3. "Vital record", for purposes of IC 16-37-1-10.5 and IC 16-37-1-10.6, has the meaning set forth in IC 16-37-1-10.5(b).**

SECTION 4. IC 16-18-2-365.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 365.4. "Vital report", for purposes of IC 16-37-1-10.5 and IC 16-37-1-10.6, has the meaning set forth in IC 16-37-1-10.5(c).**

SECTION 5. IC 16-19-10-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The center shall do the following:

- (1) Collect and process health data.
- (2) Maintain statistics concerning gender and ethnicity and provide the information to the state department of health annually.
- (3) Improve the quality, timeliness, and comparability of health statistics.
- (4) Analyze and disseminate information about the health status of Indiana residents.
- (5) Provide access to health data to persons who are permitted to obtain the data under this chapter, **IC 16-37-1-10.5, and IC 16-37-1-10.6.**
- (6) Support the goals and objectives of the Cooperative Health Statistics System established by the federal National Center for Health Statistics.

SECTION 6. IC 16-37-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:~~

- ~~(1) the health officer is satisfied that the applicant has a direct interest in the matter;~~
- ~~(2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and~~
- ~~(3) the applicant for a birth certificate presents at least one (1) form of identification.~~

However, the local health officer must issue a certificate of an applicant's own birth registration.

~~(b)~~ **(a)** A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

~~(c)~~ **(b)** A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under IC 10-13-5-11 without the authorization of the Indiana clearinghouse for information on missing children.

SECTION 7. IC 16-37-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. ~~(a) Except as provided in subsection (b), the records and files of the division of the state department concerning vital statistics are subject to this article and rules of the state department. Data contained in the records and files may be disclosed only as follows:~~

- ~~(1)~~ The state registrar shall permit inspection of the records or

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1 issue a certified copy of a certificate or part of a certificate only  
2 if the state registrar is satisfied of the following:

3 (A) That the applicant has a direct interest in the matter  
4 recorded;

5 (B) That the information is necessary for the determination of  
6 personal or property rights or for compliance with state or  
7 federal law;

8 The state registrar's decision is subject to review by the state  
9 department or a court under this section:

10 (2) The state department may permit the use of data contained in  
11 vital statistical records for research purposes only; but no  
12 identifying use may be made of the data:

13 (3) In any extraordinary case that the state registrar determines is  
14 a direct tangible and legitimate public interest:

15 (b) The birth record of an adopted child remains subject to the  
16 confidentiality provisions of IC 31-19 regarding the release of adoption  
17 information.

18 SECTION 8. IC 16-37-1-10.5 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2005]: **Sec. 10.5. (a) As used in this section  
21 and section 10.6 of this chapter, "research" means a systematic  
22 investigation designed primarily to develop or contribute to  
23 general knowledge.**

24 **(b) As used in this section and section 10.6 of this chapter, "vital  
25 record" means certificates or reports of births and deaths.**

26 **(c) As used in this section and section 10.6 of this chapter, "vital  
27 report" means reports of fetal deaths and induced termination of  
28 pregnancy and related data.**

29 **(d) As used in this section and section 10.6 of this chapter, "vital  
30 statistics" has the meaning set forth in IC 16-18-2-366.**

31 **(e) To:**

- 32 **(1) protect the integrity of vital records and vital reports;**
- 33 **(2) ensure the proper use of vital records and vital reports;**
- 34 **(3) ensure the efficient and proper administration of the**
- 35 **system of vital statistics; and**
- 36 **(4) support public health uses of the data;**

37 **a person may not permit inspection of vital records and vital**  
38 **reports, disclosure of information contained in vital records, or**  
39 **copying or issuance of a copy of all or part of any vital record or**  
40 **vital report unless authorized by this chapter, by rule, or by court**  
41 **order. Rules adopted under this chapter must provide for adequate**  
42 **standards of security and confidentiality of vital records.**

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(f) Disclosure of information that may identify any person or institution named in any vital record or vital report may be made only under rules that require submission of written requests for information by researchers and execution of research agreements that protect the confidentiality of the information provided. A research agreement required by this subsection must prohibit the release by the researcher of any information that might identify any person or institution other than releases that may be provided for in the agreement. This chapter does not prohibit the release of information or data that would not identify a person or institution named in a vital record or vital report. However, information that may identify a person named in a vital record or vital report may be released to a person doing a genealogical study in compliance with rules adopted by the state department under IC 4-22-2.

(g) Notwithstanding subsection (f), vital records, vital reports, and vital statistics must be made available for inspection and copying by local registrars to a person who is acting as a representative of the news media (as defined in IC 5-14-1.5-2(j)).

(h) Appeal from decisions of registrars of vital records who refuse to disclose information from records as prescribed by this section and rules adopted under this chapter shall be made to the state registrar, whose decision is binding.

(i) When seventy-five (75) years have elapsed after the date of birth, the records of those events in the custody of the state or local registrar shall become available to the public without restriction in accordance with rules that provide for the continued safekeeping of the records.

(j) The state registrar or local registrars may furnish copies of vital records, vital reports, or data to the federal agency responsible for national vital statistics as required for national statistics. To furnish the vital records, vital reports, or data, the state registrar must enter into an agreement with the federal agency, indicating the statistical or research purposes for which the vital records, vital reports, or data may be used. An agreement must also set forth the support to be provided by the federal agency for the collection, processing, and transmission of the vital records, vital reports, or data. Upon written request of the federal agency, the state registrar may approve, in writing, additional statistical or research uses of the vital records, vital reports, or data supplied under an agreement.

(k) A federal, state, or local governmental agency may, upon request, be furnished copies of records or data from the system of

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vital statistics if the copies or data are used solely in the conduct of the official duties of the federal, state, or local governmental agency.

(l) The state registrar may, by agreement, transmit copies of vital records and other reports required by this chapter to offices of vital statistics outside Indiana when the records or other reports relate to residents of other states or persons born in the other states. An agreement must specify the statistical and administrative purposes for which the records may be used, and the agreement must provide instructions for the proper retention and disposition of copies. Copies received by the state data center from the office of vital statistics from another state shall be handled in the same manner as state records are handled.

SECTION 9. IC 16-37-1-10.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.6. (a) If the state registrar or local registrar is satisfied that the person making a request for a vital record has a direct interest in a requested document, the state registrar or local registrar, as authorized under IC 16-20-1-17, upon receipt of an application and valid identification, shall issue a certified copy of a vital record or a part of the vital record in the custody of the state or local registrar to:

- (1) the person named on the record;
- (2) the listed mother or father of the person named on the record;
- (3) the grandparent of the person named on the record, if the grandparent is the parent of the person listed as the mother or father of the person named on the record;
- (4) the spouse, sibling, or offspring of the person named on the record;
- (5) a person with court ordered guardianship of the person named on the record;
- (6) a person authorized by a court order to receive the record;
- or
- (7) a person conducting a genealogical study in compliance with rules adopted by the state department under IC 4-22-2.

Another person not authorized to receive a copy of a record under subdivisions (1) through (7) may be authorized to obtain certified copies of the record if the person demonstrates that the record is needed for the determination or protection of personal or property rights. The state department of health may adopt rules under IC 4-22-2 to specify who may obtain copies of vital records filed

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under this chapter.

(b) All certified copies issued under this section must have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(c) A certified copy or other copy of a death certificate containing cause of death information may not be issued except as follows:

(1) Upon specific request of the spouse, child, parent, or other next of kin of the decedent or respective authorized representatives.

(2) When a documented need for the cause of death to establish a legal right or claim has been demonstrated.

(3) When the request for the copy is made by or on behalf of an organization that provides benefits to the decedent's survivors or beneficiaries.

(4) Upon specific request by a local, state, or federal agency for research or administrative purposes approved by the state registrar.

(5) When needed for research activities approved by the state or local registrar.

(6) Upon receipt of an order from a court with jurisdiction ordering the release.

(7) When a person conducting a genealogical study in compliance with a rule adopted by the state department under IC 4-22-2 proves a documented need for the death certificate.

(d) In the case of:

(1) a certificate or record filed more than one (1) year after the event to which the certificate or record relates;

(2) a record that has been amended; or

(3) a certificate of foreign birth;

a certified copy of the vital record or of any part of the vital record that is issued under this section shall be considered for all purposes the same as the original and is prima facie evidence of the facts stated in the record if the evidentiary value of the vital record is determined by the judicial body, the administrative body, or the official before whom the certificate is offered as evidence to be equal to the evidentiary value of the original.

(e) This section may not be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth certificate unless specifically authorized by the state or local registrar for statistical or research purposes. Data obtained or acquired under this section are

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1 confidential and privileged and not subject to the subpoena power  
2 of the courts or other administrative agencies of the state.

3 (f) When the state registrar receives information that a  
4 certificate may have been registered with false or inaccurate  
5 information, the state registrar shall withhold issuance of any copy  
6 of the certificate pending an investigation by the state registrar. If,  
7 upon conclusion of the investigation, false or inaccurate  
8 information is not found, copies may be issued. If, upon conclusion  
9 of the investigation, false or inaccurate information is found, the  
10 state registrar shall remove the certificate from the file until the  
11 information is corrected or refer the matter to the appropriate law  
12 enforcement authorities if criminal activity is suspected. Upon  
13 referral to law enforcement authorities the certificate, evidence,  
14 and information gathered by the state registrar shall be retained  
15 but are not subject to inspection or copying except upon order of  
16 a court with jurisdiction or by the state registrar for purposes of  
17 administering the vital statistics program.

18 (g) A person may not prepare or issue any certificate that  
19 purports to be an original, a certified copy, or a copy of a vital  
20 record except as authorized in this chapter or rules adopted under  
21 this chapter.

22 SECTION 10. IC 16-37-2-9 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The local health  
24 officer shall make a permanent record of the following from a birth  
25 certificate:

- 26 (1) Name.
- 27 (2) Sex.
- 28 (3) Date of birth.
- 29 (4) Place of birth.
- 30 (5) Name of the parents.
- 31 (6) Birthplace of the parents.
- 32 (7) The date of filing of the certificate of birth.

33 ~~(b) Except as provided in subsection (c), the permanent record shall~~  
34 ~~be open to public inspection.~~

35 ~~(c)~~ (b) The birth record of an adopted child remains subject to the  
36 confidentiality provisions of IC 31-19 regarding the release of adoption  
37 information.

38 SECTION 11. IC 16-37-3-9 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The local health  
40 officer shall, from the stillbirth and death certificates, make a  
41 permanent record of the:

- 42 (1) name;

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- 1 (2) sex;
- 2 (3) age;
- 3 (4) place of death;
- 4 (5) residence; and
- 5 (6) for a death certificate only:
- 6 (A) residence addresses of the deceased during the two (2)
- 7 years before the death; and
- 8 (B) Social Security number;
- 9 of the deceased.
- 10 (b) ~~The records shall be open to public inspection, but~~ The Social
- 11 Security number is confidential and may not be disclosed to the public.
- 12 (c) The local health officer shall, not later than January 31, April 30,
- 13 July 31, and October 31 of each year, furnish to the county auditor the
- 14 records of all deaths within the officer's jurisdiction that occurred
- 15 during the previous three (3) months.
- 16 (d) The local health officer may make records of other data in
- 17 connection with deaths for statistical purposes or for the purpose of
- 18 planning health programs. Records under this subsection are not public
- 19 records.

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